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OA 91 Criminal Complaint

MAY - 7 2007

United States District Court

NORTHERN

DISTRICT OF

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIARICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

UNITED STATES OF AMERICA

V.

CRIMINAL COMPLAINT

WDB

JOSE ANTONIO MORAN

(a/k/a Jose Rodriguez and Antonio Moran-Zapien)

Case Number: 4-07-70266

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state that the following is true and correct to the best of my

knowledge and belief. On or about May 2, 2006 in Alameda County, in
 the NORTHERN District of CALIFORNIA defendant(s) did,

(Track Statutory Language of Offense)

an alien, was removed from the United States to Mexico, on January 10, 2001, November 29, 2001, January 18, 2003, September 29, 2004, January 18, 2005, and July 29, 2005. Thereafter, on or about May 2, 2006, Defendant was found in the County of Alameda, Northern District of California, without having obtained express consent for reapplication for admission from either the Attorney General of the United States or his successor, the Secretary for Homeland Security (Title 6, United States Code, Sections 202(3), (4) and 557)

in violation of Title 8 United States Code, Section(s) 1326

I further state that I am a(n) Special Agent and that this complaint is based on the
 following facts:

See Attached Affidavit herein incorporated by reference

Maximum Penalties: 20 years imprisonment; \$250,000.00 fine; 3 years supervised release and \$100 special assessment.

Continued on the attached sheet and made a part hereof:

☒ Yes ☐ No

Approved Bryan R. Whittaker
 As To
 Form: BRYAN R. WHITTAKER, Special Assistant U.S. Attorney
AUSA

Alex Chan, Special Agent, ICE
 Name/Signature of Complainant

Sworn to before me and subscribed in my presence,

May 7, 2007
 Date

at San Francisco, California

City and State

HONORABLE ELIZABETH LAPORTE U.S. Magistrate Judge
 Name & Title of Judicial Officer

Elizabeth Laporte
 Signature of Judicial Officer

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Alex Chan, being duly sworn, do hereby state:

1. I am a Special Agent with the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Office of Investigations. I am currently assigned to the Operation Community Shield (OCS) Gang Unit of San Francisco Special Agent in Charge.

2. I have reviewed the official Alien Registration File and the automated criminal records relating to Jose Antonio Moran ("Moran"), a/k/a Jose Rodriguez and Antonio Moran-Zapien, which attest to the following:

a. Moran, is a twenty seven (27) year-old male, native and citizen of Mexico, who last entered the United States illegally on an unknown date in January 2006, by crossing the international border at or near San Ysidro, California, afoot, without first having obtained the consent of the Attorney General of the United States or the U.S. Secretary of Homeland Security.

b. Moran's official Administrative File (A File) contains six (6) executed Warrants of Deportation. Moran was arrested and deported from the United States to Mexico on January 10, 2001, November 29, 2001, January 18, 2003, September 29, 2004, January 18, 2005, and July 29, 2005.

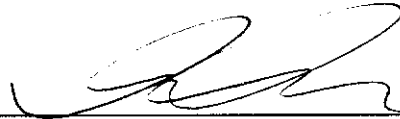
3. On or about May 2, 2006, ICE encountered Moran pursuant to his arrest in Alameda County, California on unrelated charges. On or about May 9, 2006 an immigration detainer was lodged.

4. On May 2, 2007, ICE Special Agent R. Cano and I interviewed the defendant at the ICE San Francisco detention center, after Moran was released from the Contra Costa County Jail. After Moran was advised of his Miranda rights and the right to speak with the consular or diplomatic officers of his country of citizenship, he voluntarily waived his rights and provided a sworn statement in which he admitted that he was a citizen and national of Mexico and that he had been previously deported from the United States. Moran also admitted that he illegally re-entered the United States on an unknown date in January 2006, shortly after his last removal.

5. On May 2, 2007, the Federal Bureau of Investigation Special Processing Center performed a comparison with the fingerprints on the Warrants of Deportation dated January 10, 2001, November 29, 2001, January 18, 2003, January 18, 2005, and July 29, 2005. The comparison has shown that the fingerprints on the Warrants of Deportation are identical to each other and with fingerprint taken from Moran on May 2, 2007. The fingerprint examiner also confirmed that the fingerprints of Moran are identical with those in Moran's FBI file. The fingerprint examiner positively identified the fingerprints submitted for comparison as belonging to Jose Antonio Moran, who had previously been removed from the United States as referenced above in paragraph 2.

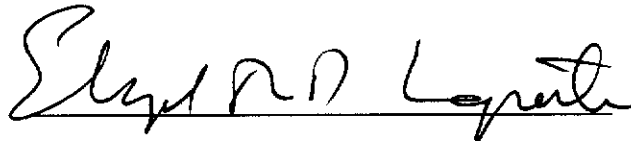
6. There is no indication in the official files of the United States Department of Homeland Security accessible to me that Moran after being removed from the United States on July 29, 2005, ever applied for or obtained the requisite permission to re-enter the United States from either the Attorney General of the United States or his successor, the Secretary of Homeland Security.

7. Based upon the facts described above, I believe that there is probable cause that the defendant, Jose Antonio Moran having previously been deported from the United States, has been found in the United States without the requisite permission, in violation of Title 8, United States Code, Section 1326.



Alex Chan, Special Agent
Department of Homeland Security
Immigration and Customs Enforcement
San Francisco, California

Subscribed and sworn to before me this 7 day of May 2007 at San Francisco, California.



Honorable Elizabeth Laporte
United States Magistrate Judge
Northern District of California
San Francisco, California